

“Moving America: Stakeholder Perspectives of Our Multimodal Transportation System”

Opening Remarks – U.S. Senator Deb Fischer

February 15, 2017 at 2:30 p.m.

Good afternoon everyone. Thank you all for being here today for our first hearing of the 115th Congress. Today’s hearing, entitled, “Moving America: Stakeholder Perspectives on our Multimodal Transportation System,” brings together an esteemed panel of transportation leaders.

As many of you are aware, President Trump mentioned strengthening and renewing our nation’s transportation infrastructure in his inaugural address. I’m encouraged to see the president making transportation infrastructure a top priority.

As Congress and the new administration seek to develop infrastructure solutions, my hope is that we address future infrastructure funding challenges. Like many of my colleagues, I am proud of the bipartisan work Congress did to enact the Fixing America’s Surface Transportation (FAST) Act.

However, our work is not done.

According to the latest projections by the Congressional Budget Office, the Highway Trust Fund (HTF) will face a deficit of over \$100 billion in the five years following the expiration of the FAST Act.¹ The HTF serves as a fair and equitable source of transportation funding for all states.

To address this funding shortfall, I’ve introduced the Build USA Infrastructure Act, modeled on Nebraska’s successful transportation funding efforts. The bill would divert a portion of revenues collected by the Customs and Border Patrol on freight and passengers at ports of entry to cover the projected deficit.

In addition, the bill would establish measures to offer states greater flexibility in initiating critical transportation infrastructure projects.

Certainty in federal highway funding and project flexibility for states should be key elements of any major infrastructure package.

I also suggest that Congress build off of the successful freight program established in the FAST Act. The multi-modal freight program provides dedicated formula funding to states for critical urban and rural corridors.

It is important that our work to make America’s transportation system more reliable and efficient also addresses the challenging regulatory environment. In 2015, I authored the TRUCK Safety Reform Act. This bill reformed the controversial and obscure regulatory process at the Federal Motor Carrier Safety Administration (FMCSA) was included in the FAST Act.

Because of this measure, the FMCSA now needs to conduct a more transparent, inclusive, and responsive regulatory process with stronger cost-benefit analysis.

¹ Latest CBO Jan 2017 Deficit is \$139 billion. Our legislation is based off of the March 2016 data (the latest at the time) projecting a deficit of \$107 billion.

The FMCSA's "entry level driver training" negotiated rulemaking is a good example of stakeholders coming together with the agency to produce positive outcomes and increase safety.²

I hope to work closely with Transportation Secretary Elaine Chao, my colleagues in Congress, and stakeholders to address similar regulatory process challenges across agencies at DOT.

For example, in the previous administration, the Federal Railroad Administration's (FRA) electronic braking rule represented a multi-billion dollar mandate without clear safety benefits. In fact, several railroads had tested and then abandoned these systems – a fact effectively disregarded by the FRA.³ This effort was followed by an ideological 'government knows best' PR campaign that criticized operators opposed to the mandate.

In reviewing this rulemaking, the Government Accountability Office found that, "DOT's modeling lacked transparency as the information published may not be sufficient for a third party to replicate..."⁴

With new leadership at the FRA, we hope the agency will improve. But we cannot rely on that alone. Congress must act to improve the use of data, risk-based analysis, transparency, collaboration, and objective based rules at the FRA.

As we examine how the FRA conducts its regulatory process, we must consider the cumulative impact of regulations across the government on a freight rail industry that is projected to infuse \$22 billion in private investment in our nation's transportation system.⁵

We should all applaud this tremendous investment in our transportation network.

Today, I look forward to hearing about how Congress can work to strengthen our nation's transportation infrastructure while enhancing safety, reliability, innovation, and efficiency across our transportation network.

I now turn to my colleague and Ranking Member Senator Cory Booker for his opening remarks.

² "FMCSA – Entry Level Driver Training," <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/eldt>.

³ NS and BNSF had tried ECP brakes but then abandoned.

⁴ Government Accountability Office "DOT's Rulemaking on ECP Brakes Could Benefit from Additional Data and Transparency," <http://www.gao.gov/assets/690/680408.pdf>.

⁵ American Association of Railroads, "Privately Owned U.S. Freight Rail Industry To Spend More Than \$22 Billion On Network In 2017," <https://www.aar.org/newsandevents/Press-Releases/Pages/Privately-Owned-US-Freight-Rail-Industry-to-Spend-More-Than-22-Billion-in-2017.aspx>.